

### PT-6

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For Additional Information: 703-696-6301 or DSN 226-6301 or [pay@cpms.osd.mil](mailto:pay@cpms.osd.mil)

#### HOURS OF WORK (Title 5, United States Code and the Fair Labor Standards Act)

This information is intended to provide guidance applicable to typical hours of work situations. Hours of work under flexible and compressed work schedules are not covered under this guide. If you have work situations that do not appear to meet one of these criteria or deal with flexible or compressed work schedules, please call your human resources or personnel office. Human resources and personnel offices are encouraged to call Field Advisory Services for additional clarification.

Rule	Title 5 (Regulated under 5 CFR 610, Subpart A)	FLSA (Regulated under 5 CFR Part 551, Subpart D)
	Coverage: All General Schedule (GS) and Federal Wage System employees. (See 5 U.S.C. 6101.)	Coverage: All Federal Wage System (FWS) and nonexempt GS employees. (See 5 CFR 551.103.)
1	Hours of work: <b>Full-time employees:</b> Hours in a basic workweek of 40 hours (not extending over more than 6 of any 7 consecutive days), including any regularly scheduled overtime and regularly scheduled standby duty for which the employee receives premium pay. <b>Part-time employees:</b> Those prescribed days and hours within an administrative workweek that an employee is scheduled to work. (See 5 U.S.C. 6101; 5 U.S.C. 5545(c)(1); and 5 CFR 610.111(a)(2).)	Hours of work: All the time spent by an employee performing an activity that is controlled by and benefits an agency. (See 5 CFR 551.401 and note 1 for examples of hours of work.)
2	(No comparable provision.) (See component guidance and local labor agreement(s) for provisions on rest periods.)	Hours of work include rest periods authorized by a supervisor that do not exceed 20 minutes and are within the same workday. (See 5 CFR 551.411(b).)
3	For employees performing standby duty, authorized meal periods are not counted as hours of work. (See 5 CFR 610.111(c)(2), component guidance, and local labor agreement(s) for provisions on in-place meal breaks.)	Hours of work do not include meal periods unless the employee is engaged in fire protection or law enforcement work for which the employee receives annual premium pay for standby duty or administratively uncontrollable overtime. (See 5 U.S.C. 5545(c)(1) or (2) and 5 CFR 551.411(c).)
4	Meal and sleep periods during regularly scheduled tours of duty <b>ARE</b> hours of work for employees receiving annual premium pay for standby duty. (See 5 CFR 550.112(m)(2)).	Sleep time is not hours of duty unless the employee is allowed less than 5 hours for the sleep period and there are not adequate facilities for uninterrupted sleep, his or her tour of duty is less than 24 hours or, the employee receives annual premium pay for standby duties. (See 5 CFR 551.432 and note 8.)

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Rule	Title 5 (Regulated under 5 CFR 610, Subpart A)	FLSA (Regulated under 5 CFR Part 551, Subpart D)
5	Preparing for or concluding work related activities that are closely related to and indispensable to the employee's normal work, e.g., pre-shift briefings, totaling more than 10 minutes per workday will be considered hours of work if the supervisor schedules time for that activity. (See 5 CFR 550.112(b) and note 2.)	Same. (See 5 CFR 551.412 and note 2.)
6	Time spent in training directly related to the work of the agency under Chapter 41 of title 5 U.S.C. is considered hours of work. (See 5 CFR 410.507.)  A special tour of duty of not less than 40 hours per administrative workweek may be granted to permit a full-time employee to take courses in a college, university or other educational institution. (See 5 CFR 610.122 and note 3.)	Time spent in training, attending meetings, lectures or conferences under certain circumstances may be considered hours of work. (See 5 CFR 551.423 and note 4 for examples of events that are creditable for hours of work.)
7	(No comparable provision.) (See 5 CFR 771.202, component guidance, and local labor agreement(s) for provisions on official time when in a duty status.)	Time spent by an employee during a grievance process when the employee's presence is required at the activity will be counted as hours of work. (See 5 CFR 551.424.)  Official time granted to an employee representing another employee during a grievance process, when the employee is in a duty status will be hours of work. (See 5 CFR 551.424.)
8	(No comparable provision. See your servicing human relations or personnel office for assistance on rules for on-the- job related injury or illness and medical examinations.)	Time spent during an employee's regular working hours waiting for and receiving medical attention for a job related illness or injury will be counted as hours of work.  Time spent taking agency required physicals will be counted as hours of work. (See 5 CFR 551.425.)
9	(No comparable provision. See your servicing human relations or personnel office for assistance on this subject.)	When an agency or component directs an employee to perform work for a public or charitable organization, the time is considered hours of work. (See 5 CFR 551.426.)
10	Time spent in a standby duty status rather than performing actual work will be considered hours of work. (See 5 CFR 610.111(c)(2) and rule 3.)	Time spent in a standby duty status may be considered hours of work. (See 5 CFR 551.431 and note 5 for guidance on crediting time spent in a standby duty status as hours of duty.)
11	When practical, travel will be done during normal duty hours.	Time spent traveling may be considered hours of work. (See 5 CFR 551.422 and notes 6 and 7 for travel time counted as hours of work.)

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**NOTES:**

1. For non-exempt employees, hours of work include:
  - a. Time during which an employee is required to remain on duty.
  - b. Time during which an employee is suffered or permitted to be on duty.
  - c. Waiting or idle time which is under the control of and benefits an agency.
  - d. Hours in a paid nonwork status, e.g., paid leave, holidays, compensatory time off, and excused absences for General Schedule employees (See 5 U.S.C. 5541(2) for the definition of employee coverage for this rule). Federal Wage System employees hours in a nonwork status, as referenced in this note, count as hours of work pursuant to section 210 of P.L. 101-509, the Federal Employees Pay Comparability Act of 1990, November 5, 1990 and as a result of the Federal circuit court decision in Armitage vs. U.S.
  - e. Hours spent in agency sanctioned training.
  - f. Certain time spent in a travel status (See note 6 below for clarification on hours of travel that qualify for hours of work and Pay Team reference Guide 1, Travel as Hours of Work for Nonexempt Employees.)
2. In order to count time spent in preparing and concluding activities as hours of work, supervisors must schedule the time period during which these activities will be performed. The employee will be credited with the time scheduled by the supervisor as hours of work.
3. Variations in work schedules to permit an employee to attend courses at a college, university or educational institute must meet the following criteria:
  - a. The course would not be considered training as defined in Chapter 41 of title 5 U.S.C.
  - b. The rearrangement of the employee's tour of duty will not to any significant degree interfere with the accomplishment of work required to be performed in his or her normal position.
  - c. Additional costs for personal services will not be incurred; and
  - d. No additional premium pay will be due to the employee solely because his or her schedule was rearranged to permit them to attend the course(s).
4.
  - a. **Time spent in training** is considered as hours of work if the training is during the employee's regular working hours.
  - b. When training is outside the employee's regular working hours, it will be considered hours of work if:
    1. The employee is directed to participate in the training by his or her component.
    2. The purpose of the training is to improve the employee's performance in his or her current position.
    3. The employee is performing work during a period of training.
    4. The agency, component, activity, or supervisor has a policy permitting preparatory time for attendance at training. The preparatory time must be scheduled during the employee's regular working hours. If the preparatory time is outside the employee's regular work hours, the training must meet the requirements for hours of work specified in paragraph d of this note.
  - c. Time spent in training, internship, apprenticeship, career related work study training, or training under the Veterans Readjustment Act outside of regular working hours is not considered hours of work when no productive work is performed.
  - d. Time spent attending a **lecture, meeting, or a conference** will be considered hours of work if:
    1. Attendance was during the employee's regular work hours; or
    2. The employee was directed to attend or perform work for the benefit of the agency or component at one of these events during a period outside of the employee's regular work hours.
5. An employee will be considered on duty and the time spent in performing standby duty if:
  - a. The employee is restricted to the activity or so close to the activity that the employee cannot use the time effectively for his or her own purposes; or

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- b. The employee:
  - 1. Is restricted to his or her living quarters or designated post of duty.
  - 2. Has his or her activities substantially limited, e.g., must be within 5 minutes or 5 miles from activity and in constant telephone contact.
  - 3. Is required to remain in state of readiness to perform work.
- 6. Time spent traveling for non-exempt employees will count as hours of work if the:
  - a. Employee is required to travel during regular working hours.
  - b. Employee is required to drive a vehicle or perform other work while traveling.
  - c. Employee is required to travel as a passenger on a one-day assignment away from their official duty station.
  - d. Employee is required to travel as a passenger on an overnight assignment away from his or her official duty station during nonworkdays that correspond to the employee's regular working hours.
  - e. Employee travels directly from home to a temporary duty location outside the limits of his or her official duty station. (**NOTE:** The normal commuting time from an employee's residence to his or her official duty station will be deducted from the time spent traveling to the TDY site to determine entitlements to hours of work for traveling.)
- 7. When an employee is allowed to use a different mode of transportation than the one selected by the agency, or an employee elects to travel at a time other than specified by the agency, the employee is entitled to the lesser of:
  - a. The actual travel time which is hours of work under 5 CFR Part 551; or
  - b. The constructed travel time had the employee used the mode of transportation on the dates and times specified by the agency.
- 8. Sleep time will be counted hours of duty when the time spent sleeping is interrupted by a call to duty.

## GLOSSARY OF TERMS

**Administratively uncontrollable overtime (AUO)** is the annual premium paid to an employee who is in a position for which the hours of duty cannot be controlled administratively and which requires substantial amounts of irregular or occasional overtime work. An employee receiving AUO is responsible for recognizing when he or she must remain on duty to perform the overtime. (Title 5 CFR Part 550)

**Administrative workweek** means a period of 7 consecutive calendar days designated in advance by the activity. (Title 5 CFR Part 550)

**Basic workweek** for full-time employees means the 40-hour workweek. For part-time employees, the basic workweek is the officially prescribed days and hours during which the employee is regularly scheduled to work. (Title 5 CFR Part 550)

**Grievance** means a request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction not excluded by provisions of Chapter 71 of title 5 CFR that is subject to the control of agency management and relates to the employment of the employee(s).

**Regular overtime work** means overtime work that is regularly scheduled and therefore part of an employee's regularly scheduled administrative workweek. (Title 5 CFR Part 550.)

**Regularly scheduled work** means work including overtime work that is scheduled in advance of the employee's administrative workweek. (Title 5 CFR Part 550)